

House of Representatives

Supplementary Order Paper

Tuesday, 3 May 2005

Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 3)

Proposed amendments

Hon Ruth Dyson, in Committee, to move the following amendments:

Clause 2

To omit the expression “**23 to 28, 30 to 40**” (line 8 on page 3), and substitute the expression “**23 to 28A, 29A, 30 to 35B, 37 to 40**”.

To omit the word “April” (line 10 on page 3), and substitute the word “July”.
To add to subclause (3) (lines 11 and 12 on page 3) the words “; and 1 or more Orders in Council may be made appointing different dates for different provisions and different purposes, including different dates for different repeals set out in **section 3(2)(a) to (t)**”.

To insert, after subclause (3) (after line 12 on page 3), the following subclause:

- (3A) **Sections 36 and 47(2)** come into force on 1 April 2006.

Clause 3

To omit subclause (2) (lines 7 to 14 on page 4), and substitute the following subclause:

- (2) Section 6(1) of the principal Act is amended—
- (a) by repealing the definition of **acupuncturist**;
 - (b) by repealing the definition of **audiologist**;
 - (c) by repealing the definition of **chiropractor**;
 - (d) by repealing the definition of **clinical dental technician**;
 - (e) by repealing the definition of **dental technician**;
 - (f) by repealing the definition of **dentist**;
 - (g) by repealing the definition of **health practitioner**;
 - (h) by repealing the definition of **medical laboratory technologist**;
 - (i) by repealing the definition of **medical practitioner**;

- (j) by repealing the definition of **medical radiation technologist**:
- (k) by repealing the definition of **midwife**:
- (l) by repealing the definition of **nurse**:
- (m) by repealing the definition of **occupational therapist**:
- (n) by repealing the definition of **optometrist**:
- (o) by repealing the definition of **osteopath**:
- (p) by repealing the definition of **pharmacist**:
- (q) by repealing the definition of **physiotherapist**:
- (r) by repealing the definition of **podiatrist**:
- (s) by repealing the definition of **registered health professional**:
- (t) by repealing the definition of **speech therapist**.

Clause 9

To omit the word “**April**” (line 8 on page 10), and substitute the word “**July**”.

Clause 13

To insert, after the word “spouse” (lines 21, 22, 29, and 30 on page 13), the words “or partner”.

To omit the word “**April**” (line 2 on page 15), and substitute the word “**July**”.

To omit the word “April” (lines 6, 10, 16, 19, 20, 24, 28, and 33 on page 15), and substitute in each case the word “July”.

Clause 20

To add, as subclause (2) (after line 23 on page 18), the following subclause:

- (2) To avoid doubt, the discretion under **section 68(3)** (as substituted by **subsection (1)**) applies only to the provision of entitlements for periods starting on or after the date on which this section comes into force.

New clause 26A

To insert, after clause 26 (after line 12 on page 21), the following clause:

26A Application and source of funds

Section 167 of the principal Act is amended by adding the following subsection:

- “(4) The funds in the Employers’ Account must also be applied to meet the costs of entitlements for personal injury caused by work-related gradual process, disease, or infection if—
 - “(a) the employment task, or employment in the particular environment, giving rise to that personal injury was performed or occurred on or after 1 July 1999; and
 - “(b) the claimant was an employee when performing that task or in that environment (regardless of whether the claimant was an employee at the date on which the personal injury is regarded as having been suffered).”

New clause 28A

To insert, after clause 28 (after line 26 on page 22), the following clause:

28A Application and source of funds

Section 192 of the principal Act is amended by adding the following subsection:

- “(6) The funds in the Residual Claims Account must also be applied to meet the costs of entitlements for personal injury caused by work-related gradual process, disease, or infection if—
- “(a) the employment task, or employment in the particular environment, giving rise to that personal injury was performed or occurred before 1 July 1999; and
 - “(b) the claimant was an employee or self-employed when performing that task or in that environment (regardless of whether the claimant was an employee or self-employed at the date on which the personal injury is regarded as having been suffered).”

New clause 29A

To insert, after clause 29 (after line 30 on page 22), the following clause:

29A Application and source of funds

Section 201 of the principal Act is amended by adding the following subsection:

- “(4) The funds in the Self-Employed Work Account must also be applied to meet the costs of entitlements for personal injury caused by work-related gradual process, disease, or infection if—
- “(a) the employment task, or employment in the particular environment, giving rise to that personal injury was performed or occurred on or after 1 July 1999; and
 - “(b) the claimant was self-employed when performing that task or in that environment (regardless of whether the claimant was self-employed at the date on which the personal injury is regarded as having been suffered).”

Clause 34

To omit the word “April” (line 18 on page 24), and substitute the word “July”.

New clause 36A

To insert, after clause 36 (after line 33 on page 25), the following clause:

36A Management of Accounts

Section 274 of the principal Act is amended by inserting, after subsection (3), the following subsections:

- “(3A) The costs of claims for personal injury caused by work-related gradual process, disease, or infection to which **section 167(4) or section 192(6) or section 201(4)** applies may be apportioned to the Employers’ Account, the Residual Claims Account, and the Self-Employed Work Account in a way that the Corporation considers appropriate having regard to the exposure period of the claimant to the injury-causing agent.

“(3B) The Minister may, without complying with section 270(2), direct the Corporation to attribute in full, or apportion in part, to the Non-Earners’ Account the costs of lump sum compensation for permanent impairment caused by gradual process, disease, or infection.”

Clause 51

To omit subclause (2) (lines 4 to 10 on page 32), and substitute the following subclause:

- (2) The amendments set out in **Schedule 1** that relate to **clauses 38, 38A, 39, 40(2), and 41** of Schedule 1 of the principal Act apply only to claims for weekly compensation that are made on or after the date of commencement of **subsection (1)**.

New clause 51A

To insert, after clause 51 (after line 30 on page 32), the following clause:

- 51A Amendments to principal Act and Injury Prevention, Rehabilitation, and Compensation Amendment Act 2005**
- (1) Clause 66 of Schedule 1 of the principal Act is amended by inserting, after the word “spouse’s” in both places where it occurs, the words “or partner’s”.
 - (2) Clause 69 of Schedule 1 of the principal Act is amended by inserting, after the word “spouse’s” in both places where it occurs, the words “or partner’s”.
 - (3) The Injury Prevention, Rehabilitation, and Compensation Amendment Act 2005 is consequentially amended by omitting, from Part 3 of the Schedule, the words “Section 66(4) and (5) and section 69(1) and (2).”.

New clause 55

To insert, after clause 54 (after line 33 on page 33), the following clause:

- 55 Regulations relating to levies for Employers’ Account and Self-Employed Work Account**
- (1) This section applies to the regulations relating to Employers’ Account levies, and the regulations relating to Self-Employed Work Account levies, that are in force under section 329 of the principal Act when this section comes into force.
 - (2) The Governor-General may, by Order in Council, make regulations amending the regulations to which this section applies for 1 or more of the following purposes:
 - (a) to remove references to private domestic workers from regulations relating to Self-Employed Work Account levies:
 - (b) to apply the regulations relating to Employers’ Account levies to private domestic workers:

- (c) to make any other changes necessary or desirable to make the regulations consistent with the provisions of this Act relating to private domestic workers.
- (3) Neither section 330 nor section 331 of the principal Act applies to regulations made under **subsection (2)**.

Schedule 1: new clause 38

To omit the word “income” (line 9 on page 35), and substitute the word “tax”.
To omit subclause (6) (lines 2 to 4 on page 37), and substitute the following subclause:

- “(6) This clause applies to claims for weekly compensation made on or after 1 July 2005, whether made in respect of a period of incapacity that started before the day on which this section comes into force or that starts on or after that day.

Schedule 1: new clause 39

To omit the word “income” (line 35 on page 37), and substitute the word “tax”.
To omit subclause (6) (lines 21 to 23 on page 39), and substitute the following subclause:

- “(6) This clause applies to claims for weekly compensation made on or after 1 July 2005, whether made in respect of a period of incapacity that started before the day on which this section comes into force or that starts on or after that day.”

Schedule 2

To omit the word “April” (line 19 on page 45), and substitute the word “July”.

Explanatory note

This Supplementary Order Paper, which replaces Supplementary Order Paper No 348, amends the Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 3) to—

- defer by 3 months the commencement of provisions that were originally intended to take effect on 1 April 2005, and defer the commencement of *clauses 36 and 47(2)* until 1 April 2006;
- provide for the repeals in *clause 3(2)* (definitions of types of health professionals) to take effect on different dates. It is intended that regulations will define terms formerly defined in the Act;
- clarify that the discretion under *clause 20* applies only to the provision of entitlements for periods starting on or after the date on which the new provision comes into force;
- provide for funds in the Employers’ Account, Residual Claims Account, and Self-Employed Work Account to be applied to meet the costs of entitlements for certain personal injury caused by work-related gradual process, disease, or infection:

- enable the amendment of levies regulations under the principal Act to reflect the fact that the Bill requires private domestic workers to pay the Employers' Account levy rather than the Self-Employed Account levy:
 - clarify that *new clauses 38 and 39* of Schedule 1 of the principal Act (as set out in *Schedule 1* of the Bill) apply to claims for weekly compensation made on or after 1 July 2005, whether the relevant period of incapacity started before or on or after that date:
 - replace references to the term "income year" in those *new clauses 38 and 39* with references to the term "tax year", to ensure consistency with changes made to the principal Act by the Income Tax Act 2004:
 - update references to the term "spouse" as a result of the passage of the Relationships (Statutory References) Bill:
 - clarify amendments to the principal Act made by the Injury Prevention, Rehabilitation, and Compensation Amendment Act 2005.
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